

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 29, 2004

DIVISION ONE

B173189 First Federal Bank of California (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (Gaggero, r.p.i.)

The Court:

THEREFORE, let a peremptory writ issue, commanding respondent superior court to vacate its order of January 8, 2004, denying First Federal Bank of California's motion for summary judgment/summary adjudication and to hear the motion on the merits in Los Angeles Superior Court case No. BC257767, entitled Stephen M. Gaggero v. First Federal Bank of California. All parties shall bear their own costs.

Spencer, P.J. Vogel (Miriam A.), J. Mallano, J.

DIVISION TWO

B162810 People (Not for Publication)
 v.
 Taylor

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
 Ashmann-Gerst, J.

March 29, 2004 (Continued)

DIVISION TWO (Continued)

B163702 People (Not for Publication)
v.
Cruz

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

B172736 Rayshell F. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children & Family Services, r.p.i.)

The petition for writ of mandate is denied, and the order to show cause is discharged.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

DIVISION THREE

B168564 People (Not for Publication)
v.
Galaviz

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

March 29, 2004 (Continued)

DIVISION THREE (Continued)

B165271 People v. Brown (Not for Publication)

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B165435 People (Not for Publication)
v.
Parks

The judgment is reversed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B168989 People (Certified for Publication)
v.
S.C.L.A.
The People

The order to show cause is discharged. The petition, insofar as it seeks dismissal of the proceedings, is denied. Let a peremptory writ of mandate issue directing respondent court to set the first recommitment petition for trial forthwith, and to proceed expeditiously with a probable cause hearing on the second recommitment petition.

Aldrich, J.

I concur: Croskey, J.
I concur: Klein, P.J. (Opinion)

March 29, 2004 (Continued)

DIVISION THREE (Continued)

B164263 People v. Martinez (Not for Publication)
B171001 In Re Martinez on Habeas Corpus

The judgment is affirmed, and the petition for writ of habeas corpus is denied.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

B162477 People (Not for Publication)
B164042 v.
 Vigil

The trial court's order striking the prior conviction allegation in case No. YA016538 is reversed, and the matter is remanded for resentencing. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
 Kitching, J.

B158441 People v. Wheaton (Not for Publication)
B170047 In re Gene Paul Wheaton on Habeas Corpus

The judgment is affirmed, and the petition for writ of habeas corpus is denied.

Aldrich, J.

We concur: Klein, P.J.
 Croskey, J.

DIVISION THREE (Continued)

B160217 People
 v.
 Carrier

Filed order vacating submission order of December 18, 2003. Due to the press of other court business and the complexity of the issues in this case, additional time is needed to complete and file the opinion in this matter. Cause resubmitted.

B163415 Leonte, et al.
 v.
 ACS State and Local Solutions, Inc.

Filed order vacating submission order of December 18, 2003. Due to the press of other court business and the complexity of the issues in this case, additional time is needed to complete and file the opinion in this matter. Cause resubmitted.

DIVISION FOUR

B170060 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Denise C.

The order terminating parental rights is reversed and the matter is remanded to the juvenile court with directions that the juvenile court shall direct DCFS to comply with the notice provisions of the ICWA. If either minor is determined to be an Indian child, a new hearing shall be held as to that minor. If either minor is determined not to be an Indian child, all previous findings and orders as to that child shall be reinstated, subject to the juvenile court's consideration of any circumstance that may have arisen during this appeal that may affect the outcome.

Epstein, Acting P.J.

We concur: Hastings, J.
 Curry, J.

DIVISION FOUR (Continued)

B170150 Qingdao AUCMA Group (Not for Publication)

$$V.$$

Superior Court, Los Angeles County
(Worldwide Water, Inc., et al., r.p.i.)

Let a peremptory writ of mandate issue directing the trial court to vacate its order of September 8, 2003 and enter a new order granting Aucma's motion to quash service of summons due to lack of personal jurisdiction. The order to show cause, having served its purpose, is discharged. Petitioner shall have its costs on this appellate review.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

B165639 People (Not for Publication)

V.

Green

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

B166015 People (Not for Publication)

V.

Hightower

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

DIVISION FOUR (Continued)

B166402 People
 v.
 Luna

Filed order denying petition for rehearing.

DIVISION FIVE

B167253 Spencer Jones
B173523 v.
 The Desert Inn, et al

Filed order consolidating above captioned appeals.

B171178 People v. Bruce King
B172285 People v. Jason A. Casasola

Filed order consolidating above captioned appeals.

DIVISION SIX

B167413 Danielson, et al. (Not for Publication)
 v.
 City of Santa Barbara

The judgment (order denying petition for writ of mandate) is affirmed. The stay issued by this court is vacated effective upon the issuance of remittitur. City is awarded costs on appeal.

Yegan, J.

We concur: Gilbert, P.J.
 Perren, J.

March 29, 2004 (Continued)

DIVISION SIX (Continued)

B165906 Merrill's Draperies, Inc. (Not for Publication)
v.
Covey

The judgment is affirmed. Costs to respondent.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B162575 People (Not for Publication)
v.
Alex

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B168108 Ventura County Department of (Certified for Publication)
Child Support Services
v.
Jeffrey C. Brown, as Trustee, etc.

The judgment is affirmed. Appellant is ordered to satisfy the judgments for past due and future child support directly from trust income or principal. Solace's request for sanctions is denied. Costs on appeal are awarded to respondents.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

March 29, 2004 (Continued)

DIVISION SIX (Continued)

B164597 People (Not for Publication)
v.
Mitchell

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B168317 People v. Copeland (Not for Publication)

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

DIVISION EIGHT

B163282 People (Not for Publication)
v.
Fucci

The judgment is reversed and the cause remanded for further proceedings in accordance with this opinion.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

March 29, 2004 (Continued)

DIVISION EIGHT (Continued)

B168115 People (Not for Publication)
v.
Juan H.

The trial court is directed to modify Juan's conditions of probation as follows: "Do not associate with anyone you know to be disapproved of by Parents or Probation Officer" "Do not have any dangerous or deadly weapon in your possession, nor remain in the presence of any person you know to be unlawfully armed." As modified, the judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
Flier, J.

B158103 Henowick (Not for Publication)
v.
Marymount College, et al.

The judgment is affirmed. Costs to respondents Marymount and ServiceMaster.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

B165024 Energy Merchant Corp., et al. (Not for Publication)
v.
Cenco Refining Company

The order awarding attorney fees and costs is affirmed. Powerine Oil Company and Siegfried K. Hodapp are to recover their costs, including attorney fees in both this and the previous appeal, the amount of which is to be determined by the trial court.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

March 29, 2004 (Continued)

DIVISION EIGHT (Continued)

(Not for Publication)

B159693 Roberts & Delatorre General Contracting, et al.

V.

A. Fanticola Companies, Inc., et al.

The judgment of the trial court is affirmed. Costs on appeal are awarded to respondent Fanticola.

Boland, J.

We concur: Cooper, P.J.
 Flier, J.

B155907 Donald, et al. (Not for Publication)

V.

Truck Insurance Exchange, et al.

1. The judgment for Farmers is affirmed. 2. The judgment for AIG is reversed. 3. The judgment for AIGTS is reversed, with directions to enter a new order denying summary adjudication of the sixth cause of action, for IIED, and its claim for punitive damages. 4. The judgment for Truck is reversed, with directions to enter a new order denying summary adjudication of the third and fourth causes of action, for breach of contract and bad faith, including the claim for punitive damages, insofar as they concern the failure to afford Dr. Donald separate counsel. 5. The appeals of AIG, AIGTS, and Truck from the orders striking their memoranda of costs are dismissed as moot. 6. The order striking the memorandum of costs of Farmers, Farmer's Group et al. is reversed with respect to those two defendants. 7. The trial court shall enter a new order allowing plaintiffs to depose Messrs. Brosky and Boylan, and allowing further discovery of the custodian of records of AIG et al. as previously sought. The court shall liberally entertain any motion to file an amended and supplemental complaint, as against AIG, AISLIC, AIGTS, or Truck. 8. The parties shall bear their own costs on appeal.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

DIVISION EIGHT (Continued)

B166704 Wilshire State Bank (Not for Publication)

v.

St. Paul Mercury Insurance Company

The judgment is reversed and the case remanded for further proceedings consistent with this opinion. The Bank is awarded costs on appeal.

Flier, J.

We concur: Cooper, P.J.
 Rubin, J.

B169199 Kline Hawkes California SBIC, L.P., et al. (Certified for Publication)

v.

Superior Court, Los Angeles County
(Idealab, et al., r.p.i.)

The petition is granted and the alternative writ is discharged. The matter is remanded with directions for the trial court to sustain the demurrer to the fourth cause of action with leave to amend and for further proceedings consistent with this opinion. The parties are to bear their own costs.

Flier, J.

We concur: Cooper, P.J.
 Boland, J.

B156427 Sherman Villas Homeowners Association

v.

Azargin, et al.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)